



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/681,497
Applicant : Stephen G. Bales
Filing Date : October 27, 2003
Title : Lignocellulosic, Borate Filled, Thermoplastic Composites
Examiner: Matthew J. Daniels
Art Unit : 1732
Docket No. : LA 001
Customer No. : 000048373

Declaration Under 37 CFR 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

City of Sewell, NJ
County of Gloucester
State of New Jersey

I, Stephen G. Bales, declare that all the statements made of my own knowledge are true, and that all statements made on information and belief are believed to be true:

1. This present invention provided a solution to a long felt need which was providing resistance to visual impairment on wood plastic composite (WPC) decking material.
2. With their introduction in 1992, WPC decking material was advertised as a "maintenance free" product. In 1998 countervailing evidence was provided by Morris and Cooper, *Recycled Plastic/Wood Composite Lumber Attached by Fungi*", an article that described decay and mold fungi growing on a WPC decking product in Florida .

2. In May, 2000 New Jersey homeowners filed a lawsuit against a major WPC producer citing warping, decay, and mold problems with their WPC decking material from 1992 to 2000. In May, 2004 the Superior Court of New Jersey certified the case as a class action suit and July of that year the case was settled as described in Docket N1 L-7347-00 of that court (Second IDS, cite # 5). As one condition of the settlement the manufacturer agreed to discontinue the use of term "maintenance free" (Docket item II.B.b).
3. The present invention addresses a problem with mold growth on WPC decking material that was cited by consumers as early as 1992 and identified by experts in 1998. This problem has continued to draw increased attention in subsequent years; most WPC manufacturers now include molds and mildew warnings and suggest periodic cleanings, including the use of special deck cleansers, in their product care and cleaning recommendations.
4. In November, 2002 after testing had been completed and the Provisional Patent Application for this invention had been filed, there was no other solution to the WPC mold problem described in any publication known to the applicant. This is confirmed in a paper by Dr. Laks in May, 2005 , *The Effect of Manufacturing Variables on Mold Susceptibility of Wood-Plastic Composites- Page 2*, indicating a review of the literature reveals that only his paper and one other in May, 2003 addressed the WPC mold susceptibility issue.

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5. I acknowledge that willful false statements and the like are punishable by fine and/or imprisonment, and may jeopardize the validity of the application of any patent issuing therefrom.



17 Hart Lane, Sewell, NJ 08080

Sworn in the State of New Jersey, County of Gloucester

In the State of New Jersey, this 22 nd day of November, 2005

Witness my hand and official seal.

My Commission Expires: 14 July 2009



Notary Public

GABRIELE S. MASTROBUONO
Notary Public - New Jersey
My Commission Expires July 14, 2009